UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,319	06/06/2001	Clifford F. Sharp	58879/P001CP1/10101651	8696

29053	7590	11/30/2004	

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

EXAMINER
PHAM, BRENDA H

ART UNIT	PAPER NUMBER
2664	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
09/875,319</td><td>Applicant(s)
SHARP ET AL.</td></tr>
<tr><td>Examiner
Brenda Pham</td><td>Art Unit
2664</td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 June 2001</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>14-35</u> is/are allowed.

6)☒ Claim(s) <u>1 and 6</u> is/are rejected.

7)☒ Claim(s) <u>2-5,7-13</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>01 June 0601</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/6/04</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-35 have been examined.

Double Patenting

2.   Claim 31 is objected to under 37 CFR 1.75 as being a substantial duplicate of

claim 35. When two claims in an application are duplicates or else are so close in

content that they both cover the same thing, despite a slight difference in wording, it is

proper after allowing one claim to object to the other as being a substantial duplicate of

the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by **SIU**

(US 6,246,687 B1).

        Claim 1, **SIU** discloses a traffic management system (referring to figure 5) for use

in conjunction with packet data, said traffic management system (see figure 5) operative

for passing data packets there through, said traffic management system comprising:

means for reviewing certain parameters of data which is flowing into said traffic management system **(means 519 of figure 5, reviewing individual virtual connection (VC1, VC2, VC3 etc.)** of packets data that is flowing into cell switching of figure 5); and mean for remembering for a period of time said reviewed certain parameters in conjunction with each received packet **(To buffer cells in a switch, guaranteed buffer space per time interval T is assigned to individual virtual connections (VCs). In each of successive periods of time, the individual VCs are allocated available buffer space up to their guaranteed buffer space, column 2, lines 35-40, see figure 5).**

Claim 6, **SIU** further teaches the traffic management system of claim 1 wherein said remembered parameters include one or more of: amount of data transmitted from a particular address in a period of time; number of packets arriving from a particular address in a period of time.

{cells are stored in at least one first-in-first-out (FIFO) buffer which serves plural virtual connections. For each incoming cell stored in the buffer, a corresponding virtual connection is identified and a cell count for that virtual connection is incremented. For each outgoing cell, a virtual connection cell count is decremented, column 2, lines 43-50}

Allowable Subject Matter

5.   Claims 14-35 are allowed.

6.   Claims 2-5, 7-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7.   The following is a statement of reasons for the indication of allowable subject matter: the prior art made of record does not teach or fairly suggest the traffic management system of claim 1 further including: means operative upon attainment of packet flow volume into said system reaching a certain level for temporary storing certain subsequently received packets in accordance with selective remembered parameters of previously received packets recited in claim 2.

Claims 14-19, the prior art made of record does not teach or fairly suggest in combination a data network monitoring system comprising: a processor for performing data throughput measurements on data passing through said system; and said processor further operative for diverting to said temporary storage device selected data entering said system, said selected data controlled in part by information obtained from said data sniffer and from said throughput measurement means.

Claims 20, 31 and 35, the prior art does not teach or fairly suggest the method of controlling a traffic management system, and method comprising steps of: reviewing certain parameters of data packets flowing into said system; remembering for a period of time said reviewed certain parameters in conjunction with each received data packet;

and upon attainment of packet flow volume into said system reaching a certain level, temporarily storing certain subsequently received packets in accordance with selective remembered parameter of previously received packets.

Claim 32, the prior art made of record further fails to teach a data flow control system for preventing an enterprise data processing system from being overloaded with data requests directed to said enterprise system from sources external to said enterprise system, and system comprising:

A gateway for accepting data directed to said enterprise system from any said external source; a data monitoring circuit for observing selected portions of certain data directed to said gateway, a delay path operable when the amount of data currently being handled by said enterprise system reaches a certain threshold for temporarily removing selected data which is directed to said gateway away from enterprise system.

8.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al (US 6,327,625 B1) discloses disclose a method of support for priority and IP security packets, and other protocols at the network interface level and in conjunction with FIFO-based packet buffers is provided by allowing out of order processing of certain packet in the FIFO. The optimized character of FIFO for sequential transfer is out of order to achieve minimum latency and maximum data security in an intelligent network interface card.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

November 22, 2004
Brenda Pham